

CHAPTER 17

CONSUMER LENDERS AND SALES FINANCE COMPANIES

Authority

N.J.S.A. 17:1-8, 8.1 and 15e; 17:1C-33 et seq.;
17:11C-49; and 17:16C-11 et seq.

Source and Effective Date

R.2010 d.130, effective June 21, 2010 (operative July 31, 2010).
See: 42 N.J.R. 105(a), 42 N.J.R. 1154(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 17, Consumer Lenders and Sales Finance Companies, expires on June 21, 2017. See: 43 N.J.R. 1203(a).

Chapter Historical Note

All provisions of Chapter 17, Consumer Loan Act Regulations, were adopted as the Commissioner of Banking pursuant to authority delegated at N.J.S.A. 17:10-23. Chapter 17 was amended by R.1975 d.147, effective June 2, 1975. See: 7 N.J.R. 192(a), 7 N.J.R. 291(c); R.1977 d.330, effective August 26, 1977. See: 9 N.J.R. 452(c). Subchapter 7, Other Business, was adopted as R.1981 d.257, effective July 9, 1981. See: 13 N.J.R. 115(e), 13 N.J.R. 384(a). Chapter 17 was amended by R.1981 d.430, effective November 2, 1981. See: 13 N.J.R. 471(b), 13 N.J.R. 754(a); R.1983 d.120, effective April 18, 1983. See: 15 N.J.R. 111(a), 15 N.J.R. 622(b); R.1985 d.486, effective September 16, 1985. See: 17 N.J.R. 1703(a), 17 N.J.R. 2247(b).

Pursuant to Executive Order No. 66(1978), Chapter 17 was readopted as R.1986 d.277, effective June 18, 1986. See: 18 N.J.R. 1021(a), 18 N.J.R. 1453(b).

Pursuant to Executive Order No. 66(1978), Chapter 17 was readopted as R.1991 d.354, effective June 13, 1991. See: 23 N.J.R. 1234(a), 23 N.J.R. 2121(a).

Pursuant to Executive Order No. 66(1978), Chapter 17, Consumer Loan Act Regulations, expired on June 13, 1996.

Chapter 17, Consumer Loan Act Regulations, was adopted as R.1996 d.409, effective September 3, 1996. See: 28 N.J.R. 2670(a), 28 N.J.R. 4095(a). Chapter 17 was repealed by R.1997 d.257, effective June 16, 1997. See: 29 N.J.R. 1489(a), 29 N.J.R. 2641(a).

Chapter 17, Consumer Lenders and Sales Finance Companies, was adopted as new rules by R.2010 d.130, effective June 21, 2010 (operative July 31, 2010). See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

3:17-1.1 Purpose and scope

(a) This chapter implements the New Jersey Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 et seq., and the Retail Installment Sales Act of 1960, N.J.S.A. 17:16C-1 et seq.

(b) This chapter shall apply to all consumer lender and/or sales finance companies whose activities require that they be licensed.

3:17-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Accrual basis of accounting” means the accounting method by which expenses are recorded when incurred, whether paid or unpaid, and income is recorded when earned, whether received or not received.

“Act” means the New Jersey Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 et seq. and, as applicable, the Retail Installment Sales Act of 1960, N.J.S.A. 17:16C-1 et seq.

“Advertisement” means any announcement, statement, assertion, or representation that is placed before the public in a newspaper, magazine, or other publication or in the form of a business card, notice, circular, pamphlet, letter or poster or over any radio or television station, by means of the internet or by other electronic means of distributing information, or in any other way.

“Alternate name” means an alternate name registered pursuant to N.J.S.A. 14A:2-2.1(2) or 42:2B-4b.

“Billing cycle” means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from such date.

“Borrower” means any individual applying for a consumer loan from a lender licensed under the Act, whether or not the loan is granted, and any individual who has actually obtained such a loan.

“Branch office” means any location where, in the regular course of business, applications for consumer loans or sales finance contracts are distributed to or received from consumers, loan records are maintained, underwriting decisions are made, or any fees or charges relating to the loan are received from consumers.

1. A home or place of business of a consumer shall not be considered a branch office.

2. A location shall not be considered a branch office merely because any or all of the following activities are conducted at the location:

- i. Consumers receive information concerning available loan products from a computer terminal;
- ii. Consumers are prequalified for a loan, so long as no additional fee is charged for this service; and
- iii. Advertising materials are distributed to consumers so long as the materials do not in any way resemble an application for a loan.

3. A branch office of a licensee under the Act does not also constitute a branch office of another licensee merely because the first licensee distributes or receives applications of that other licensee at the branch office.

“Closed-end loan” means a consumer loan pursuant to which the licensee advances a specified amount of money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time and which meets the requirements of the Act.

“Commissioner” means the Commissioner of Banking and Insurance.

“Consumer lender” means a person licensed, or a person who should be licensed, under the Act to engage in the consumer loan business.

“Consumer loan” means a loan of \$50,000 or less made by a consumer lender, payable in one or more installments, pursuant to the terms of the Act and not a residential mortgage loan as defined by N.J.S.A. 17:11C-53.

“Consumer loan business” means the business of making loans of money, credit, goods or things in action which are to be used primarily for personal, family or household purposes in the amount of value of \$50,000 or less and charging, contracting for, or receiving a greater rate of interest, discount or consideration therefor than the lender would be permitted by law to charge if he or she were not a licensee hereunder, except as authorized by the Act and without first obtaining a license from the Commissioner. Any person directly or indirectly engaging in the business of soliciting or taking applications for such loans of \$50,000 or less, or in the business or negotiating or arranging or aiding the borrower or lender in procuring or making such loans of \$50,000 or less, or in the business of buying, discounting or endorsing notes, or of furnishing, or procuring guarantee or security for compensation in amounts of \$50,000 or less, shall be deemed to be engaging in the consumer loan business.

“Controlling interest” means ownership, control or interest of 25 percent or more of the licensee or applicant.

“Department” means the Department of Banking and Insurance.